

REMARKS

The Invention

This invention relates to a hazardous material storage facility or a modular hazardous material storage facility and, more specifically, to a hazardous material storage facility having a vent system with a sensor disposed below the container supporting floor.

Status of the Claims

Claims 1-21 are pending in the application.

Claims 15 and 17 are objected to because of informalities.

Claims 1-4, 7-9, and 11-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) in view of *Westin et al.* (U.S. Patent No. 4,122,761).

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4 and further in view of *Heintzelman et al.* (U.S. Patent No. 5,030,033).

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4, 7-9, and 11-17 and further in view of *Hawkins et al.* (U.S. Patent No. 5,597,392).

Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4, 7-9, 11-17, and 16 and further in view of *Aisenberg et al.* (U.S. Patent No. 6,038,786).

Claims 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1), *Westin et al.* (U.S. Patent No. 4,122,761), and *Heintzelman et al.* (U.S. Patent No. 5,030,033) as applied to claims 1-4, 7-9, and 11-17 and further in view of *Hartman* (U.S. Patent No. 6,959,520).

Claims 15 and 17; Objected to

Claims 15 and 17 are objected to because of informalities. Claims 15 and 17 have been amended for clarity.

Claims 1-4, 7-9, and 11-17; Rejected Under 35 U.S.C. § 103(a)

Claims 1-4, 7-9 and 11-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) in view of *Westin et al.* (U.S. Patent No. 4,122,761). *Romig* discloses a hazardous materials storage facility with sloped floors. It is noted that U.S. Patent No. 6,305,131 B1 is incorporated into the present application. As such, Applicant agrees that several of the features of the present application are similar to the *Romig* reference. It is further noted that some of these features include a sloped floor, an elongated basin, a drain, and a channel that may be sloped. The Examiner states that *Romig* mentions a vent, but gives no details.

Westin discloses an elongated, rectangular container for transporting hazardous materials. The *Westin* container includes a grate-like loadbearing floor 17 disposed above leakproof tray 7 having two tunnels 10, 11 structured to allow a fork truck to lift the container. Thus, the tray 7 is split into sections. Above the tray 7 and the two tunnels 10, 11, but below the loadbearing floor 17, is a “canal” 18. Applicant notes that the “canal” in *Westin* is a planar open area that allows vapor to pass from one tray section to another and to the ventilation system, described below. Applicant further notes that this does not conform to the typical definition of “canal” as set forth in Merriam-Webster Online Dictionary, which states that a canal is “a tubular anatomical passage or channel [or] an artificial waterway for navigation or for draining or irrigating land.” Attached as Appendix 1, Exhibit 1. At one lateral side (as opposed to a longitudinal side) are pair of doors 4, 5. At the other lateral side is an end wall 3 supporting a ventilation system having a hood 22, a duct 19, and an exhaust fan 20.

The duct 19 is described as being “connected” to the canal. Applicant notes that “connect” is defined as, “to become joined <the two rooms connect by a hallway>” and “to join or fasten together usually by something intervening.” See Merriam-Webster Online Dictionary attached as Appendix 1, Exhibit 2. Applicant further notes that the duct 19 is shown as extending from a location adjacent to the top

of the end wall 3 to a point above the loadbearing floor 17. The hood 22 is the “something intervening” that “connects” the duct to the canal. Applicant further notes that the hood 22, as shown in Figure 2, extends from a position above the loadbearing floor 17 to a point parallel to the bottom of the loadbearing floor 17. As such, the hood 22 is not “beneath” the loadbearing floor 17.

Applicant further notes that a “duct,” as described and shown in the present application, is an elongated passage defined by a sidewall or sidewalls. Further, the duct 19 of *Westin* is shown as an elongated passage defined by a sidewall or sidewalls. Finally, Merriam-Webster Online Dictionary defines “duct” as “a pipe, tube, or channel that conveys a substance.” Attached as Appendix 1, Exhibit 3.

In view of the remarks and definitions set forth above, Applicant notes that nothing in either cited reference discloses, “at least one vent duct disposed beneath the upper floor.” That is, the Examiner has stated that *Romig* mentions a vent, but gives no details. Further, *Westin* discloses a “duct 19” that is disposed well above the “loadbearing floor 17” (which corresponds to the upper floor of the present application). Further, the hood 22 of *Westin* is also disposed above, or at most, parallel to, the upper floor. As such, neither reference discloses or suggests a duct that is *beneath* the upper floor.

Further, Applicant notes that the present application also discloses a vertically-extending passage for vapors located above the upper floor. This passage is identified as chimney 92. Thus, it appears that the Examiner has identified an element in the prior art, wherein the prior art uses the same designation, *i.e.*, “duct,” as is used in the present application, but where that element is equivalent to a different element in the present application, *i.e.*, the chimney. Applicant further notes that, as applicants act as their own lexicographers, and as the present application uses two different words to describe vapor passages, there is clearly a difference between a “duct” and a “chimney.” Thus, Applicant disagrees with the Examiner’s statement that *Westin* discloses a “duct.” However, Applicant concedes that it is accurate to state that *Westin* discloses a chimney.

Further, based on the definition set forth above, Applicant also disagrees with the Examiner’s assertion that, by virtue of disclosing “canal 18,” *Westin* discloses a “channel.” That is, as discussed in the specification of the present application, a

“channel” is, “created by a U-shaped member 55, as shown in Fig. 3A. However, as shown in Fig. 3B, any shape channel, *e.g.*, a V-shaped channel, is acceptable.”

Specification at page 8, lines 2-4. Such an interpretation comports with the Merriam-Webster Online Dictionary, which defines a “channel” as “a long gutter, groove, or furrow [or] a metal bar of flattened U-shaped section.” Attached as Appendix 1, Exhibit 4. As further set forth in the specification, this shape allows the “channel” to substantially concentrate any spilled liquid and the associated vapors in a discrete location within the facility. Conversely, the “canal” of *Westin* is the entire open space between the upper floor and the tray and between the side walls. Such a “canal” does not act to concentrate the fluid/vapors in a discrete portion of the container. Accordingly, Applicant disagrees with the Examiner that *Westin* discloses a “channel.”

With regard to the determination of obviousness under 35 U.S.C. § 103, the Supreme Court has stated that:

Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, *it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does.* This is so because inventions in most, if not all, instances rely on building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.

KSR International Co. v. Teleflex Inc., ___ U.S. ___, ___, 2007 WL 1237837 (2007), (Slip Opinion at 14-15) (emphasis added). In addition, the Supreme Court also noted that:

Often, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue. To facilitate review, *this analysis should be made explicit.* See *In re Kahn*, 441 F.3d 977, 988 (Fed Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, *there must be some articulated reasoning with some rational underpinnings to support the legal conclusion of obviousness*”).

Id., at ____ (Slip Opinion at 14) (emphasis added). It is noted that the Supreme Court included an extended discussion reciting the nature of the inventions disclosed in the prior art and then several paragraphs identifying the rationale and reasons that the cited art could be combined and why one skilled in the art would make such a combination. *Id.*, at ____ (Slip Opinion at 3-6, 20-22).

With regard to combining known elements of an invention, the Supreme Court further stated that, “[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *Id.*, at ____ (Slip Opinion at 14). This holding comports with *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), which held that, although some of the cited references individually may have some of the claimed inventions’ features, “one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to depreciate the claimed invention.” *Id.* at 1075. Instead, to reach the proper conclusion under §103:

The decision maker must step backward in time and into the shoes worn by [a person having ordinary skill in the art] when the invention was unknown and just before it was made. In light of *all* the evidence, the decision maker must then determine whether...the claimed invention as a whole would have been obvious at *that* time to *that* person.

Id. at 1073-74. (emphasis added).

The Examiner has not properly supported the rejection under 35 U.S.C. § 103(a) and under *KSR International*. In the final Office Action, the Examiner has merely identified a list of selected elements recited in the present application and located various references, wherein elements with similar names are disclosed. The Examiner has not “made explicit” the reason such references would, or could, be combined as suggested. For example, the “duct 19” identified by the Examiner extends generally vertically and is disposed well above the grate-like upper floor. It is not clear what would prompt one skilled in the art to move this duct to a location below the upper floor. As such, even a cursory analysis of the proposed combination reveals that an amalgamation of *Romig* and *Westin* would, at best, result in the building of *Romig* having a *Westin*-like chimney. By not providing a detailed

analysis, the Examiner has also failed to indicate how one skilled in the art would combine the sloped floors of *Romig*, which are structured to drain any spilled fluid to a central location, with the flat bottom trays of *Westin*, which are structured to maintain any spilled fluid below the container. Further, it is not clear how one skilled in the art could have a *Romig*-like sloped floor structured to drain any spilled fluid to a central location while incorporating the two “tunnels” of *Westin*. Such tunnels would block the flow of any spilled fluid and prevent the fluid from reaching the basin or other central location.

It is further noted that, after identifying a number of elements in the prior art having the same designation/name as elements recited in the claims of the present application, the Examiner merely states that, “[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to include the vent and duct system of *Westin et al.* with the hazardous material shelter of *Romig* in order to remove fumes that collect at the bottom of the channel as taught by *Westin et al.*” Merely identifying specific elements that various references disclose and stating that they may be combined is not an “articulated reasoning with some rational underpinnings” sufficient to support the conclusion of obviousness. As set forth by the Court in *KSR International*, a “patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” In fact, the single sentence provided by the Examiner is the type of “mere conclusory statement” that the *KSR International* Court held cannot properly support a rejection under 35 U.S.C. § 103.

Independent Claim 1 recites, *inter alia*, at least one vent duct disposed beneath the upper floor and adjacent to the lower floor basin. As the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as no reference discloses at least one vent duct disposed beneath the upper floor and adjacent to the lower floor basin, the rejection of Claim 1 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 2 depends from Claim 1 and relies upon its dependency for patentability.

Claim 3, which depends from Claim 2, further recites that the basin includes a channel. As the Examiner has not properly supported the proposed combination, as

that art cannot be combined as suggested, and as no reference discloses a basin that includes a channel, the rejection of Claim 3 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claims 4, 7, and 8 depend directly or indirectly from Claim 3 and rely upon their dependency for patentability.

Claim 9, which depends from Claim 7, recites that the vent openings are disposed on the sides of the vent duct. The Examiner cites *Westin* at Col. 2, lines 39-40, as disclosing this element. These lines state that, as opposed to a canal wide hood, the vertical duct could have “a number of induction openings along width of the canal.” Again it is noted that the *Westin* duct is disposed above the canal. As such, any openings “along the canal” would be disposed on the lower side of the duct. As such, *Westin* does not disclose vent openings are disposed on the sides of the vent duct. Accordingly, as the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as no reference discloses vent openings disposed on the sides of the vent duct, the rejection of Claim 9 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 11 depends from Claim 2 and relies upon its dependency for patentability.

Claim 12, which depends from Claim 11, further recites that the basin includes a channel. As the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as no reference discloses a basin that includes a channel, the rejection of Claim 12 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claims 13 and 14 depend directly or indirectly from Claim 12 and rely upon their dependency for patentability.

Claim 15, which depends from Claim 14, further recites that the at least one duct includes two ducts and those ducts are disposed on opposite sides of the channel. As the Examiner contends that the *Westin* canal teaches the channel of the present invention, and as *Westin* discloses a hood extending across the width of the canal, it is not clear how or where one skilled in the art could add a second duct/hood. Accordingly, as adding a second duct is impossible given the *Westin* configuration, Applicant disagrees that adding a second duct involves only routine skill in the art.

Further, as the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as no reference discloses two ducts disposed on opposite sides of the channel, the rejection of Claim 15 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 16, which depends from Claim 3, further recites that the duct is disposed below the lower floor but above the bottom of the channel. As the *Westin* duct is shown as being above the upper floor, Applicant disagrees that one skilled in the art would find it obvious to move the duct not only below the upper floor, but below the lower floor as well, as stated by the Examiner. Moreover, as the Examiner contends that the *Westin* canal teaches the channel of the present invention, and as *Westin* discloses that the canal extends from one side wall to the other side wall and to the bottom of the tray, thereby leaving no room to the sides of the canal, it would be impossible to move the *Westin* duct to a location below the second floor, as suggested by the Examiner. That is, as the “tray” of *Westin* is the second floor, and is at the bottom of the entire device, if one were to move the duct below the floor, it would no longer be in the *Westin* container. Accordingly, as adding a duct disposed below the lower floor is impossible given the *Westin* configuration, Applicant disagrees that it would have been obvious to place a duct below the tray of *Westin*, as suggested by the Examiner. Further, as the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as no reference discloses a duct disposed below the lower floor but above the bottom of the channel, the rejection of Claim 16 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 17, which depends from Claim 16, further recites that the at least one duct includes two ducts and those ducts are disposed on opposite sides of the channel. As that Examiner contends that the *Westin* canal teaches the channel of the present invention, and as *Westin* discloses a hood extending across the width of the canal, it is not clear how or where one skilled in the art could add a second duct/hood and have the duct located on the opposite side of the channel. Accordingly, as adding a second duct is impossible given the *Westin* configuration, Applicant disagrees that adding a second duct involves only routine skill in the art. Further, as the Examiner has not properly supported the proposed combination, as that art cannot be combined as

suggested, and as no reference discloses two ducts disposed on opposite sides of the channel, the rejection of Claim 17 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Accordingly, the rejections of Claims 1-4, 7-9, and 11-17 under 35 U.S.C. § 103(a) as being unpatentable over *Romig* in view of *Westin et al.* is in error and should be withdrawn.

Claims 5 and 6; Rejected Under 35 U.S.C. § 103(a)

Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4 and further in view of *Heintzelman et al.* (U.S. Patent No. 5,030,033). *Romig* and *Westin*, their deficiencies and the reasons these references cannot be combined are set forth above. *Heintzelman* discloses a material containment system that includes a vault for storage tanks. *Heintzelman* further discloses that the vault is sealed (Col. 5, lines 25-36; Col. 8, lines 13-17) and a, inert gas atmosphere is provided (Col. 8, lines 43-48).

Simply put, it is impossible to combine a vented system, such as *Romig* and *Westin*, with a sealed assembly, such as *Heintzelman*.

Further, as noted above, *KSR International* requires that the Examiner provide an “articulated reasoning with some rational underpinnings” sufficient to support the proposed combination. Here, the Examiner has again merely identified a number of components and asserted, in a single conclusory sentence, that such components can be combined. First, such a single sentence is not sufficient under *KSR International*. Second, such a conclusory sentence does not address how the reference could be combined. For example, the Examiner has not explained how one can keep the an inert gas atmosphere of *Heintzelman* if one is drawing in air from the atmosphere, as disclosed in *Romig* and *Westin*.

Claim 5, which depends from Claim 4, recites, *inter alia*, a means for removing air and fumes from the facility. As the Examiner has not properly supported the proposed combination and as that art cannot be combined as suggested, the rejection of Claim 5 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claim 6 depends from Claim 5 and relies upon its dependency for patentability.

Accordingly, the rejections of Claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over *Romig* in view of *Westin et al.* and *Heintzelman et al.* is in error and should be withdrawn.

Claim 10; Rejected Under 35 U.S.C. § 103(a)

Claim 10 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4, 7-9 and 11-17 and further in view of *Hawkins et al.* (U.S. Patent No. 5,597,392). *Romig* and *Westin*, their deficiencies and the reasons these references cannot be combined are set forth above. *Hawkins* discloses a register filter, wherein the register includes a damper. It is noted that *Hawkins* relates to registers for heating and cooling systems.

Applicant believes that under 35 U.S.C. § 103(a), *Hawkins* is non-analogous art. That is, as set forth in *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992), “[i]n order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” In *Oetiker*, the Applicant claimed an improvement in a hose clamp, which differed from the prior art in the presence of a preassembly “hook,” which maintained the preassembly condition of the clamp and disengaged automatically when the clamp was tightened. The claims were rejected on the basis of a reference, which disclosed a hook-and-eye fastener for use in garments. The rejection was based on the rationale that all hooking problems are analogous. The rejection, however, was overturned when the Court held the reference was not within the field of Applicant's endeavor and was not reasonably pertinent to the particular problem with which the inventor was concerned because it had not been shown that a person of ordinary skill, seeking to solve a problem of fastening a hose clamp, would reasonably be expected or motivated to look to fasteners for garments.

Similarly, this application relates to a ventilation system in a hazardous materials storage facility, whereas *Hawkins* relates to a common register for heating

and cooling systems. Thus, just as the prior art garment hook was unrelated to the *Oetiker* hose clamp hook, the register for a common heating and cooling system of *Hawkins* is unrelated to the hazardous materials storage facility or container of *Romig* and *Westin*, respectively. Further, the Examiner has failed to indicate why a person of ordinary skill, seeking to solve a problem related to a hazardous materials storage facility, would reasonably be expected or motivated to look to a reference disclosing a common register.

Further, as noted above, *KSR International* requires that the Examiner provide an “articulated reasoning with some rational underpinnings” sufficient to support the proposed combination. Here, the Examiner has again merely identified a number of components and asserted, in a single conclusory sentence, that such components can be combined. First, such a single sentence is not sufficient under *KSR International*. Second, such a conclusory sentence does not address how the reference could be combined.

Accordingly, the rejection of Claim 10 under 35 U.S.C. § 103(a) as being unpatentable over *Romig* in view of *Westin et al.* and *Hawkins* is in error and should be withdrawn.

Claim 18: Rejected Under 35 U.S.C. § 103(a)

Claim 18 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1) and *Westin et al.* (U.S. Patent No. 4,122,761) as applied to claims 1-4, 7-9, 11-17, and 16 and further in view of *Aisenberg et al.* (U.S. Patent No. 6,038,786). *Romig* and *Westin*, their deficiencies and the reasons these references cannot be combined are set forth above. *Aisenberg* discloses a hand dryer. *Aisenberg* further uses the word “turbulator.” The *Aisenberg* turbulator is an axially twisted vane 56. The twisted vane is spiral-shaped or convoluted to interrupt the modulated laminar flow within the heated air duct.

It is commonly accepted knowledge that volatile materials typically become more volatile when heated. As such, it would be highly dangerous to combine the hand dryer of *Aisenberg* with the hazardous material storage devices of *Romig* and *Westin*. Further, under the standard set forth in *Oetiker*, Applicant believes that under 35 U.S.C. § 103(a), *Aisenberg* is non-analogous art. That is, given the dangerous

nature of heated hazardous materials and the specialized nature of hazardous material storage devices, Applicant believes that one skilled in the art of designing hazardous material storage devices would not turn to hand dryer art to find improvements.

Further, as noted above, *KSR International* requires that the Examiner provide an “articulated reasoning with some rational underpinnings” sufficient to support the proposed combination. Here, the Examiner has again merely identified a number of components and asserted, in a single conclusory sentence, that such components can be combined. First, such a single sentence is not sufficient under *KSR International*. That is, given how dissimilar the present application, *Romig* and *Westin* (all relating to hazardous material storage devices) are from *Aisenberg* (hand dryer), it appears that the only relevance that *Aisenberg* has to the present application is the use of the word “turbulator.” However, as set forth in *KSR International*, “[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” (Slip Opinion at 14). Further, such a conclusory sentence does not address how the reference could be combined.

Accordingly, the rejection of Claim 18 under 35 U.S.C. § 103(a) as being unpatentable over *Romig* in view of *Westin et al.* and *Aisenberg* is in error and should be withdrawn.

Claims 19-21; Rejected under 35 U.S.C. § 103(a)

Claims 19-21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Romig* (U.S. Patent No. 6,305,131 B1), *Westin et al.* (U.S. Patent No. 4,122,761) and *Heintzelman et al.* (U.S. Patent No. 5,030,033) as applied to claims 1-4, 7-9, and 11-17 and further in view of *Hartman* (U.S. Patent No. 6,959,520). *Romig*, *Westin*, and *Heintzelman*, their deficiencies and the reasons these references cannot be combined are set forth above. *Hartman* discloses a building panel and attachment system. This system includes a series of ducts that are located on an inner side or an outer side of an I-beam. One duct is made from two sections, an “inner duct” section disposed adjacent to the I-beam, and an “outer duct” section that is spaced from the I-beam. It is noted that the inner duct is not disposed within the outer duct. Further, the ducts include a T-shaped duct (78A) that has snap tabs (78D) structured to engage duct (77S).

The Examiner asserts that *Hartman* discloses an inner duct (78D) and an outer duct (77S). Applicant disagrees. Applicant requests that the Examiner review the discussion of Figure 10 at Col. 10, line 43 – Col. 14, line 3. The elements named by the Examiner, and identified by the reference numbers, do not match the description set forth in *Hartman*. In any event, *Hartman* does not disclose a two-duct system wherein one duct is disposed inside the other.

Further, as noted above, *KSR International* requires that the Examiner provide an “articulated reasoning with some rational underpinnings” sufficient to support the proposed combination. Here, the Examiner has again merely identified a number of components and asserted, in a single conclusory sentence, that such components can be combined. First, such a single sentence is not sufficient under *KSR International*. Second, such a conclusory sentence does not address how the reference could be combined.

Claim 19, which depends from Claim 3, recites, *inter alia*, an inner duct disposed within an outer duct. As the Examiner has not properly supported the proposed combination, as that art cannot be combined as suggested, and as the cited art does not disclose an inner duct disposed within an outer duct, the rejection of Claim 19 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

Claims 20 and 21 each depend from Claim 19 and rely upon their dependency for patentability.

Accordingly, the rejection of Claims 19-21 under 35 U.S.C. § 103(a) as being unpatentable over *Romig* in view of *Westin et al.*, *Heintzelman*, and *Hartman* is in error and should be withdrawn.

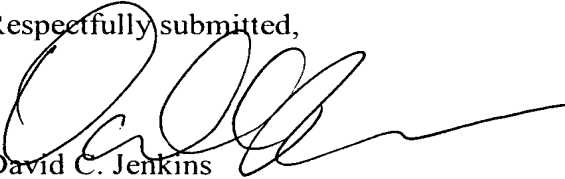
Additional Definitions

Applicant notes the definitions of “above” and “overhead” are to be entered into evidence and which may be needed at a later date. These definitions, which are found in the Merriam-Webster Online Dictionary, are attached as Exhibits 5 and 6 in Appendix 1.

CONCLUSION

In view of the remarks above, Applicant respectfully submits that the application is in proper form for issuance of a Notice of Allowance, and such action is requested at an early date.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. C. Jenkins', with a long horizontal flourish extending to the right.

David C. Jenkins
Registration No. 42,691
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219
Attorney for Applicant

(412) 566-1253